

Effective 5/13/2014

Superseded 5/12/2015

49-12-203 Exclusions from membership in system.

- (1) The following employees are not eligible for service credit in this system:
 - (a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;
 - (b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;
 - (c) an employee serving as an exchange employee from outside the state;
 - (d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;
 - (e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;
 - (f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);
 - (g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d); or
 - (h) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system under Subsection 49-11-623(3).
- (2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:
 - (a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or
 - (b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.
- (3)
 - (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.
 - (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).
 - (c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).
- (4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:
 - (a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

- (b) an elected official;
 - (c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;
 - (d) an employee of the Governor's Office of Management and Budget;
 - (e) an employee of the Governor's Office of Economic Development;
 - (f) an employee of the Commission on Criminal and Juvenile Justice;
 - (g) an employee of the Governor's Office;
 - (h) an employee of the State Auditor's Office;
 - (i) an employee of the State Treasurer's Office;
 - (j) any other member who is permitted to make an election under Section 49-11-406;
 - (k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and
 - (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.
- (5)
- (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).
 - (b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.
- (6)
- (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision whichever is lesser.
 - (b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.
- (7) Each participating employer shall:
- (a) file employee exemptions annually with the office; and
 - (b) update the employee exemptions in the event of any change.
- (8) The office may make rules to implement this section.